

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HOWARD SCHATZ, *et al.*,

Plaintiffs,

-v-

BINARY BITS, L.L.C.,

Defendant.

23 Civ. 5361 (PAE) (SN)

ORDER

PAUL A. ENGELMAYER, District Judge:

On October 3, 2023, defendant filed a motion to dismiss the complaint under Rule 12 of the Federal Rules of Civil Procedure. Dkt. 21. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

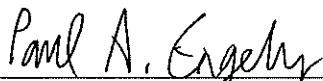
Accordingly, it is hereby ORDERED that plaintiffs shall file any amended complaint by October 24, 2023. No further opportunities to amend will ordinarily be granted. If plaintiffs do amend, by November 11, 2023, defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiffs, stating that it relies on the previously filed motion to dismiss.¹

It is further ORDERED that if no amended complaint is filed, plaintiffs shall serve any opposition to the motion to dismiss by October 24, 2023. Defendant's reply, if any, shall be served by November 7, 2023. At the time any reply is served, the moving party shall supply the Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to EngelmayerNYSDChambers@nysd.uscourts.gov.

¹ If defendant files a new motion to dismiss or relies on its previous motion, plaintiffs' opposition will be due 14 days thereafter, and defendant's reply, if any, will be due seven days after that.

The Court will determine later, after receipt of plaintiffs' anticipated brief opposing a motion to dismiss the current or amended complaint, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: October 3, 2023
New York, New York